



APPENDIX

Pertinent Provisions of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942

**54 U. S. Stat. 1178 [as amd. by Act of Oct. 6, 1942,
Public Law 732, 77th Cong. Ch. 581]**

ENFORCEMENT OF MORTGAGE OBLIGATIONS; PENAL PROVISIONS

SEC. 302. (1) The provisions of this section shall apply only to obligations secured by mortgage, trust deed, or other security in the nature of a mortgage upon real or personal property owned by a person in military service at the commencement of the period of the military service and still so owned by him which obligations originated prior to such person's period of military service.

(2) In any proceeding commenced in any court during the period of military service to enforce such obligation arising out of nonpayment of any sum thereunder due or out of any other breach of the terms thereof occurring prior to or during the period of such service the court may, after hearing, in its discretion, on its own motion, and shall, on application to it by such person in military service or some person on his behalf, unless in the opinion of the court the ability of the defendant to comply with the terms of the obligation is not materially affected by reason of his military service—

(a) stay the proceedings as provided in this Act; or

(b) make such other disposition of the case as may be equitable to conserve the interests of all parties.

(3) No sale, foreclosure, or seizure of property for non-payment of any sum due under any such obligation, or for any other breach of terms thereof, whether under a power of sale, under a judgment entered upon warrant of attorney to confess judgment contained therein, or otherwise, shall be valid if made after the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942 and during the period of military service or within three months thereafter, except pursuant to an agreement as provided in section 107, unless upon an order previously granted by the court and a return thereto made and approved by the court.

(4) Any person who shall knowingly cause to be made any sale, foreclosure, or seizure of property, defined as invalid by subsection (3) hereof, or attempts so to do, shall be guilty of a misdemeanor and shall be punished by imprisonment not to exceed one year or by fine not to exceed \$1,000, or both.

STAY OF ACTIONS

SEC. 201. At any stage thereof any action or proceeding in any court in which a person in military service is involved, either as plaintiff or defendant, during the period of such service or within sixty days thereafter may, in the discretion of the court in which it is pending, on its own motion, and shall, on application to it by such person or some person on his behalf, be stayed as provided in this Act, unless, in the opinion of the court, the ability of plaintiff to prosecute the action or the defendant to conduct his defense is not materially affected by reason of his military service.

Article VII—Further Relief

APPLICATIONS FOR RELIEF BY PERSONS IN MILITARY SERVICE

SEC. 700. (1) A person may, at any time during his period of military service or within six months thereafter, apply to a court for relief in respect of any obligation or liability incurred by such person prior to his period of military service or in respect of any tax or assessment whether falling due prior to or during his period of military service. The court, after appropriate notice and hearing, unless in its opinion the ability of the applicant to comply with the terms of such obligation or liability or to pay such tax or assessment has not been materially affected by reason of his military service, may grant the following relief:

(a) In the case of an obligation payable under its terms in installments under a contract for the purchase of real estate, or secured by a mortgage or other instrument in the nature of a mortgage upon real estate, a stay of the enforcement of such obligation during the applicant's period of military service and, from the date of termination of such period of military service or from the date of application if made after such service, for a period equal to the period of the remaining life of the installment contract or other instrument plus a period of time equal to the period of military service of the applicant, or any part of such combined period, subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination of the period of military service or from the date of application, as the case may be, in equal installments during such combined period at such rate of interest on the unpaid balance as is prescribed in

such contract, or other instrument evidencing the obligation, for installments paid when due, and subject to such other terms as may be just.

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SECTION 1077-A OF THE CIVIL PRACTICE ACT
OF THE STATE OF NEW YORK

1077-a. Foreclosure for principal defaults suspended.

During the period of the emergency as defined in section ten hundred seventy-seven-g, and notwithstanding any inconsistent provisions of the civil practice act or of any other general or special law, or of any agreement, bond or mortgage, no action or proceeding for the foreclosure of a mortgage upon real property, or any interest therein, nor any foreclosure under article seventeen of the real property law, shall be maintainable, solely for or on account of a default in the payment of principal secured by such mortgage or solely in the payment of any installment or amortization of principal secured by such mortgage, although the payment of such principal or installment or amortization of principal may be due by the terms of such agreement, bond or mortgage, provided, however, that where a default authorizing foreclosure shall have occurred under the terms of the bond or mortgage or other agreement, other than the non-payment of principal or an installment or amortization of principal, and any grace period therein specified shall have expired, then the rights and remedies of the holder of the mortgage shall not be affected by this act.

Notwithstanding the foregoing provisions of this section, any installments or amortization of principal, or principal which, by the terms of such agreement, bond or mortgage, have become due or shall become due and pay-

able prior to July first, nineteen hundred thirty-four shall become and be due and payable six months after the expiration of such emergency period as now or hereafter defined or extended.

Notwithstanding the foregoing provisions of this section, any installments or amortization of principal, or principal which, by the terms of such agreement, bond or mortgage, shall become due and payable between July first, nineteen hundred thirty-four and July first, nineteen hundred thirty-seven, inclusive, shall become and be due and payable one year after the expiration of such emergency period as now or hereafter defined or extended.

L. 1933, ch. 793 [see § 1077-g; am'd. L. 1934, ch. 357 in effect May 7; L. 1936, ch. 286, in effect April 6, and *cf.* ch. 86 (§ 1077-g); L. 1943, chs. 93 and 94 in effect March 11, extending emergency period to July 1, 1944; *cf.* §§ 1077-g and 1083-b].

SECTION 1077-G OF THE CIVIL PRACTICE ACT OF THE STATE OF NEW YORK

1077-g. Mortgages not affected.

The provisions of sections ten hundred seventy-seven-a, ten hundred seventy-seven-b, ten hundred seventy-seven-c, ten hundred seventy-seven-cc, ten hundred seventy-seven-d, ten hundred seventy-seven-e, ten hundred seventy-seven-f, shall not apply to any mortgage or the modification or extension of any mortgage insured, or hereafter insured under the provisions of the National Housing Act in effect June twenty-seventh, nineteen hundred thirty-four, as said act has been or is hereafter amended from time to time or to any mortgage held by a savings and loan association, payable in monthly installments over a period of more than ten years from the time of the making of the loan,

or made in accordance with the provisions of section three hundred eighty-four or three hundred eighty-five of the banking law nor to any mortgage dated on or after July first, nineteen hundred thirty-two, nor to any installments or amortization of principal, the payment of which is provided for by extension or modification executed on or after July first, nineteen hundred thirty-seven, nor to the mortgages so extended or modified, nor to any obligations in connection with or secured by any such mortgages. The provisions of said sections ten hundred seventy-seven-a, ten hundred seventy-seven-b, ten hundred seventy-seven-c, ten hundred seventy-seven-cc, ten hundred seventy-seven-d, ten hundred seventy-seven-e, and ten hundred seventy-seven-f, shall apply to the final payment of principal of the mortgages so extended or modified if all installments or amortization the payment of which is provided for by such extension or modification are made as provided for by such extension or modification.

Notwithstanding the provisions of sections ten hundred seventy-seven-a, ten hundred seventy-seven-b, ten hundred seventy-seven-c, ten hundred seventy-seven-cc, ten hundred seventy-seven-d, ten hundred seventy-seven-e, ten hundred seventy-seven-f, and in addition to the cases therein provided for the commencement of foreclosure actions, and not in limitation thereof, any owner or holder of a mortgage covering real property as to which there is a default in the payment of any of the principal amount thereof as provided in the instrument creating the mortgage debt or any modification or extension thereof may commence an action to foreclose such mortgage unless the owner of the mortgaged premises shall pay the unpaid principal amount thereof at the rate of one per centum per annum. Such principal payments shall accrue from July first, nineteen hundred forty-two and shall be payable on October first, nineteen hundred forty-two, and quarterly thereafter.

In any action or proceeding for the foreclosure of a mortgage on real property or any interest therein or in any foreclosure under article seventeen of the real property law instituted by reason of default in the payment of installment or amortization the payment of which is provided for by such extension or modification, or by the terms of this section, if such action or proceeding has not proceeded to final judgment directing the sale of the mortgaged premises, then such action shall be dismissed and discontinued upon the payment by any defendant to the plaintiff of the taxable costs and disbursements, and the payments of such installment or amortization in default and the remedying of any other default under the terms of such mortgage or extension or modification. The period of the emergency shall be from the date this act takes effect until July first, nineteen hundred forty-four.

(Secs. 1077-a and 1077-g added L. 1933, ch. 793, in effect August 26; am. L. 1934, ch. 278, in effect April 23; L. 1935, ch. 1, in effect Jan. 18; L. 1936, ch. 86, in effect March 6, and *cf.* ch. 87; *cf.* L. 1936, ch. 703, in effect May 25; L. 1937, ch. 82, in effect July 1; L. 1937, ch. 714, in effect May 28; L. 1938, ch. 500, in effect April 6; L. 1939, ch. 606, in effect May 31; L. 1940, chs. 566 and 567, both in effect April 17; *cf.* Sec. 1083-b; L. 1941, ch. 782, in effect April 27; L. 1943, chs. 93 and 94, in effect March 11, extending emergency period to July 1, 1944; *cf.* Secs. 1077-a and 1083-b.)